

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY SANTO DOMINGO IMMEDIATE

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E.O. 11652:N/A

TAGS: SHUM, MASS, DR

SUBJECT: CONGRESSIONAL REQUIREMENT FOR HUMAN RIGHTS
STATEMENT

REF: STATE 231122

1. AS EMBASSY IS AWARE, SECTION 301(B) OF NEW SECURITY
ASSISTANCE LEGISLATION REQUIRES DEPARTMENT TO SUBMIT
STATEMENTS TO CONGRESS ON THE OBSERVANCE OF HUMAN RIGHTS
IN ALL COUNTRIES PROPOSED AS RECIPIENTS OF SECURITY
ASSISTANCE (REFTEL).

2. TO MEET THIS REQUIREMENT FOR THE DOMINICAN REPUBLIC,
THE FOLLOWING STATEMENT HAS BEEN DRAFTED IN THE DEPARTMENT
FOR SUBMISSION WITH THE FY 1978 SECURITY ASSISTANCE
APPROPRIATIONS REQUEST. IT IS IN STANDARD FORMAT, STYLE,
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AND LENGTH OF HUMAN RIGHTS STATEMENTS PREPARED ON OTHER
COUNTRIES. DRAFT IS L.O.U., BUT FINAL STATEMENT SUBMITTED
TO CONGRESS IN JANUARY WILL BE UNCLASSIFIED. ANY EMBASSY
COMMENTS ON THIS DRAFT, NOT YET FULLY CLEARED IN THE
DEPARTMENT, REQUESTED BY C.O.B. DECEMBER 20.

3. QUOTE. I. POLITICAL SITUATION. THE DOMINICAN REPUBLIC DOES NOT HAVE A TRADITION OF GENUINE POLITICAL DEMOCRACY.

THE DICTATORSHIP OF RAFAEL TRUJILLO, FOR EXAMPLE, HELD POWER FROM 1930 TO 1961. UNDER THE PRESENT CONSTITUTION OF 1966, THE DOMINICAN REPUBLIC IS A REPRESENTATIVE DEMOCRACY, WITH AN ELECTED PRESIDENT, A BICAMERAL LEGISLATURE, AND AN INDEPENDENT JUDICIARY.

THE CURRENT GOVERNMENT IS HEADED BY PRESIDENT JOAQUIN BALAGUER, NOW IN HIS THIRD FOUR-YEAR TERM OF OFFICE. DURING BALAGUER'S FIRST YEARS AS PRESIDENT, POLITICAL FREEDOM WAS RESTRICTED. AT PRESENT, OVER A DOZEN POLITICAL PARTIES AND GROUPS REPRESENTING MANY VIEWS AND PHILOSOPHIES ARE OFFICIALLY RECOGNIZED AND OPENLY ACTIVE. THE COUNTRY HAS A FUNCTIONING LEGISLATURE WITH REPRESENTATIVES OF OPPOSITION PARTIES, AND A VIGOROUS PRESS OFTEN CRITICAL OF THE GOVERNMENT. PRESIDENT BALAGUER HAS ANNOUNCED THE GOAL OF ACHIEVING "FUNCTIONAL DEMOCRACY" BY THE END OF HIS THIRD TERM (1978).

IN THE LATE 1960'S AND EARLY 1970'S, INSURGENCY ATTEMPTS, KIDNAPPINGS, ASSASSINATIONS AND MILITARY AND POLICE REPRESSION LED TO MANY ALLEGATIONS OF HUMAN RIGHTS VIOLATIONS. REPORTS OF SUCH INCIDENTS HAVE DIMINISHED OVER THE PAST FEW YEARS, BUT OPPOSITION GROUPS MAINTAIN THAT PRESIDENT BALAGUER'S 1974 RE-ELECTION WAS ACCOMPANIED BY VOTING FRAUDS.

II. LEGAL SITUATION. THE DOMINICAN CONSTITUTION OF 1966 LIMITED OFFICIAL USE

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GUARANTEES THE FULL RANGE OF HUMAN RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, INCLUDING HABEAS CORPUS.

THE PRESIDENT MAY DECLARE A STATE OF SIEGE IN CASE OF BREACH OF PEACE OR PUBLIC CALAMITY, SUSPENDING THE FOLLOWING PARAGRAPHS OF ARTICLE 8 OF THE CONSTITUTION: 2(B) (ARBITRARY ARREST OR DETENTION); 2(C) (ARREST WITHOUT LEGAL BASIS OR DUE PROCESS); 2(D) (COURT APPEARANCE WITHIN 48 HOURS OF ARREST); 2(E) (RELEASE FROM ARREST IF NOT CHARGED WITHIN 48 HOURS); 2(F) (TRANSFER FROM ONE PRISON TO ANOTHER WITHOUT WRITTEN JUDICIAL ORDER); 2(G) (BEING DETAINED WITHOUT PROMPT PRESENTATION TO COMPETENT AUTHORITIES); 3 (INVIOABILITY OF DOMICILE); 4 (FREEDOM OF MOVEMENT); 6 (FREEDOM OF EXPRESSION); 7 (FREEDOM OF ASSOCIATION) AND 9 (INVIOABILITY OF CORRESPONDENCE AND DOCUMENTS).

NO STATE OF SIEGE EXISTS AT PRESENT. JUDGES IN THE COURT SYSTEM, FROM JUSTICES OF THE PEACE TO SUPREME COURT JUSTICES ARE NAMED BY THE POPULARLY ELECTED SENATE. ACCESS TO THE COURTS IS RELATIVELY EASY.

PARDONS AND CLEMENCY FOR CONVICTED PRISONERS ARE COMMON. IN DECEMBER 1975, THREE PUERTO RICANS CONVICTED OF TRANSPORTING THREE DOMINICAN GUERRILLAS TO THE DOMINICAN REPUBLIC WERE PARDONED.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.
A. INTEGRITY OF THE PERSON.

ARTICLE 3: OBSERVANCE OF THE RIGHT TO LIFE, LIBERTY AND SECURITY OF THE PERSON IS GENERALLY RESPECTED IN THE DOMINICAN REPUBLIC, EXCEPT FOR PERSONS SUSPECTED OF ENGAGING IN VIOLENCE OR SEEKING THE VIOLENT OVERTHROW OF LIMITED OFFICIAL USE

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THE GOVERNMENT. IN SUCH CASES THE LEGAL RIGHTS OF INDIVIDUALS APPREHENDED ARE NOT ALWAYS OBSERVED.

ARTICLE 5: TORTURE, CRUEL, INHUMAN AND DEGRADING TREATMENT OR PUNISHMENT OF PRISONERS WAS COMMON UNDER TRUJILLO. IN RECENT YEARS, SUCH VIOLATIONS HAVE DIMINISHED, AND NO LONGER APPEAR TO BE GOVERNMENT POLICY.

ARTICLE 8: ACCESS TO LEGAL REMEDIES IS GENERALLY AVAILABLE TO AN ACCUSED.

ARTICLE 9: OPPOSITION LEADERS HAVE SOMETIMES BEEN ARRESTED AND HELD FOR SEVERAL WEEKS OR MONTHS AND THEN RELEASED. CHARGES HAVE USUALLY BEEN FILED PROMPTLY. DISSIDENTS ARE SOMETIMES EXILED.

ARTICLE 10: THE RIGHT TO A FAIR HEARING IS GENERALLY OBSERVED, EXCEPT FOR SOME PERSONS ENGAGING IN POLITICALLY-MOTIVATED VIOLENCE.

ARTICLE 11: TRIALS APPEAR FAIR AND SENTENCES RELATIVELY MILD.

B. OTHER IMPORTANT FREEDOMS. RACIAL DISCRIMINATION IS NOT KNOWN TO BE PRACTICED IN THE DOMINICAN REPUBLIC. MOVEMENT IS UNRESTRICTED, AND ALL PERSONS ARE FREE TO OWN AND DISPOSE OF PROPERTY. FREEDOM OF THOUGHT AND RELIGION ARE GUARANTEED. THE DOMINICAN PRESS IS VIGOROUS AND INDEPENDENT, AND SOME PAPERS ARE HIGHLY CRITICAL OF THE GOVERNMENT. A BROAD SPECTRUM OF POLITICAL PARTIES AND

GROUPS ARE ALLOWED TO HOLD MEETINGS, ASSEMBLIES, AND DEMONSTRATIONS. LABOR UNIONS ARE ALSO PERMITTED, BUT APPEAR TO FACE SOME RESTRICTIONS.

IV. OTHER HUMAN RIGHTS REPORTING. THE "AMNESTY INTERNATIONAL REPORT ON TORTURE," PUBLISHED IN 1973, STATES LIMITED OFFICIAL USE

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"INFORMATION THAT HAS REACHED AMNESTY INTERNATIONAL FROM

MANY SOURCES SUGGESTS THAT THE MOST ELEMENTARY HUMAN RIGHTS HAVE CONSISTENTLY BEEN VIOLATED IN THE DOMINICAN REPUBLIC. ALTHOUGH THE REGIME OF PRESIDENT BALAGUER (PRESIDENT SINCE 1966) IS NOMINALLY A CONSTITUTIONAL DEMOCRACY, THERE ARE CLEAR SIGNS THAT ALL POLITICAL OPPOSITION HAS BEEN BITTERLY SUPPRESSED."

IT SHOULD BE NOTED THAT OVER A DOZEN POLITICAL PARTIES, MANY OF THEM STRONGLY OPPOSED TO THE PRESENT GOVERNMENT, ARE OPENLY ACTIVE. THE MAIN OPPOSITION PARTY, THE PRD, HELD A NATIONAL CONVENTION IN OCTOBER 1976, ATTENDED BY HUNDREDS OF DELEGATES.

THE "AMNESTY INTERNATIONAL REPORT 1975-1976" STATES THAT "THE HUMAN RIGHTS SITUATION IN THE DOMINICAN REPUBLIC IN 1975-76 REMAINED AS BAD AS IN PREVIOUS YEARS, ADDING THAT "ALLEGATIONS OF TORTURE, HARRASSMENT OF POLITICAL OPPONENTS, MAINLY TRADE UNIONISTS, ILLEGAL ARRESTS AND DETENTIONS ARE REGRETTABLY COMMON." THE REPORT ALSO NOTES THAT THE DOMINICAN GOVERNMENT REFUSED PERMISSION FOR AMNESTY DELEGATES TO VISIT THE COUNTRY IN 1975. THE REPORT FURTHER ASSERTS THAT IN JUNE 1975 HUNDREDS OF ARRESTS TOOK PLACE FOLLOWING A SUPPOSED LANDING OF A GUERRILLA FORCE, BUT THAT THE MAJORITY OF THOSE DETAINED WERE SOON FREED WITHOUT TRIAL.

FREEDOM HOUSE LISTS THE DOMINICAN REPUBLIC AS "PARTIALLY FREE." END QUOTE.
ROBINSON

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